

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of----- )  
 )  
PUBLIC UTILITIES COMMISSION )  
 )  
Instituting a Proceeding to )  
Investigate the Issues and )  
Requirements Raised by, and )  
and Contained in, Hawaii Revised )  
Statutes 486H, as Amended. )  
\_\_\_\_\_ )

DOCKET NO. 05-0002

ORDER NO. 21670

RECEIVED  
2005 MAR -2 A 7:54  
DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

Filed March 1, 2005  
At 3 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of-----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	Docket No. 05-0002
	)	
Instituting a Proceeding to	)	Order No. 21670
Investigate the Issues and	)	
Requirements Raised by, and	)	
and Contained in, Hawaii Revised	)	
Statutes 486H, as Amended.	)	
_____	)	

ORDER

By this order, the commission sets forth the regulatory schedule for this docket.

I.

Introduction

On January 4, 2005, the commission instituted an investigation to examine the issues and requirements raised by, and contained in, Hawaii Revised Statutes ("HRS") Chapter 486H, as amended.<sup>1</sup> By letter dated February 7, 2005, the commission

---

<sup>1</sup>During the 2002 Legislative session, the Legislature enacted Act 77, Session Laws of Hawaii 2002, which established maximum pre-tax wholesale and retail prices on regular unleaded gasoline to be sold in the State of Hawaii (the "State"). In 2004, the Legislature enacted Act 242, Session Laws of Hawaii 2004, which among other things: (1) changed the baseline for determining maximum pre-tax wholesale gasoline prices by using the average of the sport prices for regular unleaded gasoline for the markets of New York Harbor, the United States Gulf Coast, and Los Angeles; (2) extended the maximum pre-tax wholesale price limits to mid-grade and premium gasoline; (3) repealed the maximum pre-tax retail gasoline price; (4) established zones

notified the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"), Chevron USA ("Chevron"), Tesoro Hawaii Corporation ("Tesoro Hawaii"), Shell Oil Company ("Shell"), and the Hawaii Petroleum Marketers Association ("HPMA") (hereinafter collectively referred to as "Parties") of the commission's proposed regulatory schedule and requested the Parties to provide comments, if any, by February 14, 2005. On February 14, 2005, Shell and Tesoro Hawaii filed their comments regarding the commission's proposed regulatory schedule.<sup>2</sup>

## II.

### Discussion

In Shell's comments, Shell notes, among other things, that the commission's proposed schedule does not provide an opportunity for the Parties to submit formal written information requests to the commission's consultant on its report ("Consultant Report") that will be filed in this proceeding and

---

within the State and authorized the commission to adjust the maximum pre-tax wholesale gasoline prices in the various zones; (5) extended the effective date for the imposition of the maximum pre-tax wholesale gasoline price limit to September 1, 2005; and (6) appropriated funds, to be expended by the commission, to carry out the purposes of chapter 486H and Act 242.

<sup>2</sup>On February 14, 2005, Chevron requested an extension to February 16, 2005 to provide comments on the commission's proposed regulatory schedule. By letter dated February 17, 2005, the commission granted Chevron's request for an extension to provide comments to the commission's proposed regulatory schedule. Chevron did not subsequently file comments to the commission's proposed regulatory schedule.

does not offer the opportunity to submit any written rebuttal to the various position statements that are filed in the docket.

Shell requested that the following items be integrated into the commission's final format: (1) that there be an amount of time of no less than three (3) weeks from the time that the Consultant Report is filed until the date of the proposed technical meeting between the commission's consultant and the Parties; (2) that the technical meeting of the Parties is recorded in an acceptable manner for purposes of establishing a record, e.g., having a court reporter present; (3) that the Parties have the opportunities to submit written rebuttal to any position statement filed by any Party; and (4) in the alternative/addition to items (1) through (3), Shell is willing to meet with other Parties and with the appropriate representative of the commission to work out a format and schedule that is acceptable to all Parties involved.

Tesoro Hawaii's comments, among others things, included the following: (1) other entities should be made parties to this docket or at a minimum, be required to answer information requests from the commission either voluntarily or by subpoena and the Parties be allowed to review such information; (2) the Parties should have the opportunity to submit information requests and otherwise conduct discovery with respect to the Consultant Report; and (3) the Parties should be allowed to file reply statements of position to clarify the positions and the information provided in this docket.

Based upon a review of the comments by Shell and Tesoro Hawaii, the commission will amend the schedule to provide: (1) more than three (3) weeks from the time that the Consultant Report is filed until the date of the proposed technical meeting between the consultant and the Parties; (2) the Parties an opportunity following the technical meeting to issue information requests upon the commission's consultant for purposes of establishing a record; and (3) the Parties an opportunity to submit written rebuttal to any position statement filed by any other party. The commission notes that it has already issued information requests to entities that are not Parties to this proceeding.

Accordingly, the commission will adopt the regulatory schedule attached hereto as Exhibit "A" to this order. The Parties shall adhere to the regulatory schedule attached hereto as Exhibit "A". Notwithstanding the above, the commission reserves the right to amend the regulatory schedule to facilitate its investigation.

### III.


#### Order

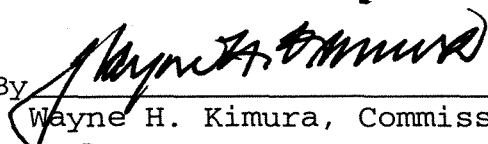
THE COMMISSION ORDERS that the Regulatory Schedule attached hereto as Exhibit "A" is approved and shall be made a part of this order.

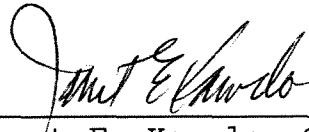
DONE at Honolulu, Hawaii

MAR - 1 2005

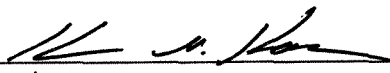
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Kevin M. Katsura  
Commission Counsel

05-0002.eh

**EXHIBIT "A"**  
**REGULATORY SCHEDULE**  
**PROCEEDING TO INVESTIGATE THE ISSUES AND REQUIREMENTS RAISED BY,**  
**AND CONTAINED IN, HAWAII REVISED STATUTES CHAPTER 486H, AS**  
**AMENDED.**  
**Docket No. 05-0002**

	DATE	PROCEDURAL STEPS
1.	February 2, 2005 to April 15, 2005.	PUC Discovery Period.
2.	April 15, 2005	Consultant Report filed.
3.	Week of April 18, 2005	Consultant to Brief the Legislature on Report Findings and Methodology.
4.	Weeks of May 2, 2005 and May 9, 2005.	Public Meetings.
5.	May 19, 2005.	Consultant made available for technical meeting with Parties.
6.	May 27, 2005	Parties Information Requests to ICF Consultants Due.
7.	June 17, 2005	ICF Response to Parties Information Requests Due.
8.	July 1, 2005	Parties Position Statements Due.
9.	July 11, 2005	Parties Rebuttal Statements Due.
10.	To be determined.	Decision and Order by PUC.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21670 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

DAVID HEERWALD LEONARD  
VICE PRESIDENT & GENERAL COUNSEL  
TESORO HAWAII CORPORATION  
91-325 Komohana Street  
Kapolei, HI 96707-1713

CRAIG I. NAKANISHI, ESQ.  
RUSH MOORE LLP  
737 Bishop Street, Suite 2400  
Honolulu, HI 96813

MICHAEL H. LAU, ESQ.  
KENT D. MORIHARA, ESQ.  
OSHIMA CHUN FONG & CHUNG LLP  
841 Bishop Street, Suite 400  
Honolulu, HI 96813

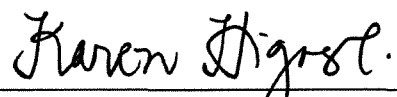
CLIFFORD K. HIGA, ESQ.  
BRUCE NAKAMURA, ESQ.  
KOBAYASHI, SUGITA & GODA  
First Hawaiian Center  
999 Bishop Street, Suite 2600  
Honolulu, HI 96813



Certificate of Service  
Page 2

DANNY BATCHELOR  
SENIOR COUNSEL  
SHELL OIL COMPANY  
P. O. Box 2463  
Houston, TX 77252-2463

KELLY G. LAPORTE, ESQ.  
MARC E. ROUSSEAU, ESQ.  
CADES SCHUTTE LLP  
1000 Bishop Street, Suite 1200  
Honolulu, HI 96813

  
\_\_\_\_\_  
Karen Higashi

DATED: MAR - 1 2005